



Commonwealth of Massachusetts State Ethics Commission

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SUFFOLK, ss

COMMISSION ADJUDICATORY
DOCKET NO. 06-0027

IN THE MATTER
OF
GARY VAN TASSEL

DISPOSITION AGREEMENT

The State Ethics Commission and Gary Van Tassel enter into this Disposition Agreement pursuant to Section 5 of the Commission's *Enforcement Procedures*. This Agreement constitutes a consented-to final order enforceable in the Superior Court, pursuant to G.L. c. 268B, § 4(j).

On July 26, 2005, the Commission initiated a preliminary inquiry, pursuant to G.L. c. 268B, § 4(a), into possible violations of the conflict-of-interest law, G.L. c. 268A, by Van Tassel. The Commission has concluded its inquiry and, on July 25, 2006, found reasonable cause to believe that Van Tassel violated G.L. c. 268A.

The Commission and Van Tassel now agree to the following findings of fact and conclusions of law.

Findings of Fact

1. Van Tassel served as a Springfield Liquor License Commissioner from early 2003 until December 2003.

2. The Liquor License Commission had the authority to issue liquor licenses, renew liquor licenses each year, and investigate any license holder for any alleged noncompliance with the liquor laws. If violations were found, the commission could impose sanctions including loss of license. Such matters were within the scope of Van Tassel's official duties.

3. Among the liquor stores under the Liquor License Commission's jurisdiction was Kappy's Liquors.

4. In December 2003, Van Tassel received from Kappy's two gift certificates whose total value was about \$200.

5. Van Tassel did not directly benefit from the certificates. He never used them himself, nor did he return them unused to Kappy's. Instead, according to Van Tassel, believing the mailing received from Kappy's was direct mail, he gave the certificates to his wife who gave them to a colleague.

6. Van Tassel never disclosed in writing to anyone that he had received gift certificates from Kappy's.

7. In or about late November or early December 2003, the Liquor License Commission, with Van Tassel participating, reviewed and voted to approve Kappy's liquor license renewal.

8. In addition to renewing Kappy's license, the Liquor Commission had the authority to investigate Kappy's for any alleged noncompliance with the liquor laws and, if violations were found, to impose sanctions including loss of license. Van Tassel had official duties with respect to any such actions.

9. During Van Tassel's tenure on the Liquor Commission, Kappy's was never alleged to be in non-compliance with the liquor laws.

Conclusions of Law

10. As a Springfield Liquor License Commissioner, Van Tassel was a municipal employee as that term is defined in G.L. c. 268A, § 1(g), and therefore subject to the conflict-of-interest law.

11. Section 23(b)(3) prohibits a municipal employee from knowingly or with reason to know acting in a manner which would cause a reasonable person, having knowledge of the relevant circumstances, to conclude that any person can improperly influence or unduly enjoy his favor in the performance of his official duties, or that he is likely to act or fail to act as a result of kinship, rank, position or undue influence of any party or person. It shall be unreasonable to so conclude if such officer or employee has disclosed in writing to his appointing authority or, if no appointing authority exists, discloses in a manner which is public in nature, the facts which would otherwise lead to such a conclusion.

12. In applying § 23(b)(3), the Ethics Commission will evaluate whether the public employee is poised to act in his official capacity and whether, due to his private relationship or interest, an appearance arises that the integrity of the public official's action might be undermined by the relationship or interest. *In re Flanagan*, 1996 SEC 757 (January 17, 1996 decision and order).

13. Van Tassel's receipt of the gift certificates from Kappy's at or around the time that a vote on Kappy's annual license renewal would normally occur, created an appearance that the integrity of his official actions might be undermined. Thus, Van Tassel knowingly or with reason to know acted in a manner that would cause a reasonable person having knowledge of the relevant circumstances to conclude that Kappy's Liquors can improperly influence or unduly enjoy Van Tassel's favor in the performance of his official duties, or that Van Tassel is likely to act or fail to act as a result of the undue influence of Kappy's.

14. Van Tassel never filed a disclosure to dispel this appearance problem.

15. Accordingly, Van Tassel violated § 23(b)(3).

Resolution

In view of the foregoing violations of G.L. c. 268A by Van Tassel, the Commission has determined that the public interest would be served by the disposition of this matter without further enforcement proceedings, on the basis of the following terms and conditions agreed to by Van Tassel:

- (1) that Van Tassel pay to the Commission the sum of \$500 as a civil penalty for violating G.L. c. 268A; and
- (2) that Van Tassel waive all rights to contest the findings of fact, conclusions of law and terms and conditions contained in this Agreement in this or any other related administrative or judicial proceedings to which the Commission is or may be a party.

DATE: December 21, 2006